

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
v.)	Criminal No. 3:16-cr-00163-1
)	Judge Trauger
BRITTAN EZEKIEL KETTLES)	

MEMORANDUM AND ORDER

The defendant has filed a Motion to Reconsider Admission of Evidence Pursuant to F.R.E. 412(b)(1)(C) and to Admit Evidence Pursuant to F.R.E. 608(a) and (b) (Docket No. 295), to which the government has filed a Response (Docket No. 324), and the defendant has filed a Reply (Docket No. 335).

The defense requests that he be allowed to cross-examine the minor victim in this case as to events evidenced in the sealed Attachment to the motion (Docket No. 297). He asserts that the credibility of the victim is so crucial to the defense of this case that Federal Rule of Evidence 412 must yield to the defendant's rights to confrontation, due process, and to present his defense.

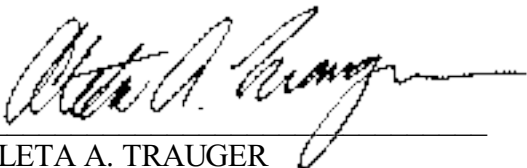
All of this material is inextricably interwoven with evidence that is inadmissible under Federal Rule of Evidence 412, and the Sixth Circuit has clearly held so in a case remarkably similar to the facts in this case. *U.S. v. Cardinal*, 782 F.2d 34 (6th Cir. 1986). Moreover, in a later decision that relies upon *Cardinal* and goes further to hold that exclusion of evidence of exactly this sort - that goes to the credibility of a crucial witness, but implicates Rule 412 concerns - does not violate the constitutional rights of the accused to confront witnesses against him and to present a defense. *Boggs v. Collins*, 226 F.3rd 728 (6th Cir. 2000).

The defendant has been given permission to impeach the victim witness with a felony conviction, and numerous inconsistent statements by the victim witness likewise provide rich fodder for her cross-examination. The defense has adequate tools at its disposal to cross-examine this important witness.

For these reasons, the defendant's Motion to Reconsider (Docket No. 295) is DENIED.

It is so **ORDERED**.

ENTER this 25th day of May 2018.



ALETA A. TRAUGER
U.S. District Judge